

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 647 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? No.
 2. To be referred to the Reporter or not? No. :
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? No.
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No.
 5. Whether it is to be circulated to the Civil Judge? : NO
No.

SHANTABEN BHOLABHAI PRAJAPATI

Versus

BHAVNABEN J PRAJAPATI C/O. PITAMBARBHAI OZA

Appearance:

MR MEHUL SHARAD SHAH for Petitioner

MR ASHISH DAGLI FOR MR YOGESH S LAKHANI for Respondent No. 1

RULE SERVED for Respondent No. 2

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 21/09/2000

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner is the mother of deceased

Jigneshbhai who died on 25-4-1998 leaving behind him, mother Shantaben, wife Bhavnaben and two children namely son Parth and daughter Disha. There was some Insurance Policy in the name of deceased Jigneshbhai.

3. The mother Shantaben filed civil suit claiming her share and other benefits for the welfare and benefits of minor children of deceased Jignesh.

4. The trial Court passed the order dismissing the application exh. 5 and held that the defendant no.1 shall be entitled to get 75% amount of the Insurance Policy mark 4/1 to mark 4/5 of deceased Jigneshbhai including the amount of bonus earned till the date as well as consequential benefits, from the defendant no.2 Life Insurance Corporation of India on furnishing the surety of the equal amount in the trial Court.

5. The defendant no. 2 L.I.C. of India was liable to make payment of the aforesaid Insurance Policy to the defendant no. 1 and the defendant no. 2 was directed to make payment thereof by the order dated 30-10-1999 passed by the Jt. Civil Judge (JD), Mahesana. Against that order Civil Misc. Appeal No.293/99 was filed by Bhavnaben wife of deceased Jigneshbhai before the District Court, Mahesana and the learned Jt. District Judge, Mahesana allowed the said appeal and set aside the trial Court's order dated 30-10-99 vide his judgment and order dated 29-4-2000 and held that the defendant no. 1 is entitled to 3/4 i.e 75% of the amount which is mentioned in the plaint. However, it was required to make request to the defendant no.1 that if she gets the amount then the amount should be used for benefits of the aforesaid minors.

6. Learned counsel for the parties stated that the parties have agreed to the extent that the respondent no. 2 Life Insurance Corporation of India be directed to deposit the entire amount of Insurance Policy of deceased Jigneshbhai including the bonus and all consequential benefits in the trial Court and the trial Court be directed to give 25% amount of the aforesaid Insurance Policy to the mother Shantaben Bholabhai Prajapati, 25% of the aforesaid amount of Insurance Policy to the Bhavnaben widow of Jigneshbhai and remaining 50% of the amount of Insurance Policy be deposited in any Nationalized Bank on long term basis in the fixed deposit in the names of the minors under the guardianship of mother Bhavnaben widow of Jigneshbhai Prajapati till the minors attain majority. The mother Bhavnaben also be directed to file undertaking that she will not take any loan or create any charge or encumbrances over such fixed

deposit or withdraw any amount without prior permission of the Court. The petitioner Shantaben Bholabhai Prajapati mother of deceased son be also directed to withdraw the suit filed by her before the trial Court.

7. In view of the statement of the learned counsel for the parties the present Civil Revision Application is being disposed of with the directions that the respondent no. 2 Life Insurance Corporation of India is directed to deposit the entire amount of Insurance Policy of deceased Jigneshbhai including the bonus and all consequential benefits in the trial Court. The trial Court is directed to give 25% amount of the aforesaid Insurance Policy to the mother Shantaben Bholabhai Prajapati and 25% of the aforesaid amount of Insurance Policy to the Bhavnaben widow of Jigneshbhai and remaining 50% of the amount of Insurance Policy is directed to be deposited in any Nationalized Bank on long term basis in the fixed deposit in the names of the minors under the guardianship of mother Bhavnaben widow of Jigneshbhai Prajapati till the the aforesaid minor children attain majority. The mother Bhavnaben also is directed to file undertaking that she will not take any loan or create any charge or encumbrances over such fixed deposit or withdraw any amount without prior permission of the trial Court. The petitioner Shantaben Bholabhai Prajapati mother of deceased son Jigneshbhai Prajapati is directed to withdraw the suit filed by her before the trial C

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8. With the above directions and observations, the present Civil Revision Application is disposed of. Rule is discharged with no order as to costs. Interim relief granted by this Court stands vacated.

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/JVSatwara/